

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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CIVIL MINUTES - GENERAL

CASE NO.: CV 08-03334 SJO (JWJx)DATE: June 10, 2008TITLE: Hartford Life Insurance Co. v. Reginald Burgess, et al.

=====
PRESENT: THE HONORABLE S. JAMES OTERO, UNITED STATES DISTRICT JUDGE

Victor Paul Cruz
Courtroom ClerkNot Present
Court Reporter

COUNSEL PRESENT FOR PLAINTIFF:

COUNSEL PRESENT FOR DEFENDANTS:

Not Present

Not Present

===== PROCEEDINGS (in chambers):

ORDER GRANTING PLAINTIFF'S MOTION TO REMAND

[Docket No. 13]

This matter is before the Court on Plaintiff Hartford Life Insurance Co.'s ("Hartford") Motion to Remand, filed June 9, 2008. The Court finds this matter suitable for disposition without oral argument and vacates the hearing set for July 7, 2008. See Fed. R. Civ. P. 78(b).

Defendant Reginald Burgess' removal of this case from Los Angeles Superior Court is deficient in numerous ways. Most glaring among these deficiencies is Burgess' failure to remove this case – even if it were removable – within 30 days as required by 28 U.S.C. § 1446(b). Burgess made a general appearance in state court on February 11, 2008, more than three months before he removed this case. Under California law, a general appearance "is equivalent to personal service of summons" on a party. See Cal. Civ. Proc. Code § 410.50(a); see *Fireman's Fund Ins. Co. v. Sparks Constr., Inc.*, 114 Cal. App. 4th 1135, 1145 (2004). Burgess removed about two months too late.

Accordingly, Hartford's Motion to Remand is GRANTED. This case is REMANDED to Los Angeles County Superior Court.

IT IS SO ORDERED.